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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,470	03/28/2005	Heinz Focke	Q86730	8169

23373 7590 01/05/2007  
SUGHRUE MION, PLLC  
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SUITE 800  
WASHINGTON, DC 20037

EXAMINER
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SAINT SURIN, JACQUES M

ART UNIT	PAPER NUMBER
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2856

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/529,470

Applicant(s)

FOCKE ET AL.

Examiner

Jacques M. Saint-Surin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2006 and 28 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/06, 03/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramm (US Patent 7,067,833 B2) in view of Wang et al. (US Patent 6,125,708).

Regarding claim 1, Ramm discloses a method for detecting a tear-off strip (11) or a tear-off thread on a material web (8) or film web (2) with the aid of sensors (14, 15 and 19), characterized by the following features:

a) the sensors are ultrasonic transmitters (14), on the one hand, and ultrasonic receivers (15), on the other hand, which are positioned on different sides of the material web (8), (see: also col. 2, lines 49-50);

b) ultrasonic transmitter (14) and ultrasonic receiver (15) are positioned such that the material web (8) conveyed between ultrasonic transmitter (14) and ultrasonic receiver (15) is registered by ultrasonic waves substantially exclusively in the region of the tear-off strip or tear-off thread (col. 2, lines 61-65);

d) the ultrasonic receiver (15) is connected to an evaluation unit (21) which reacts to changes in the intensity of the waves picked up. However, Ramm does not disclose or suggest the ultrasonic transmitter is constructed in such a way that a lobe or response curve generated by the latter corresponds approximately to the width of the tear-off strip (col. 2, lines 40-45). Note that Applicant's disclosure describes in the specification describes the defined response curve, approximately of the width of the tear-off strip 11, can be produced by an appropriate construction of the ultrasonic transmitter 18 and in the exemplary embodiment shown in FIG. 4, the aperture stop 24 is formed in such a way that the ultrasonic transmitter 18 (of circular cross-section) has a central gap 25 running diametrically (page 6, lines 20-31). Wang discloses axial

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deformation transducer of the present invention to be a rugged deformation transducer that is responsive only to axial tensile and compressive deformation (see: col. 1, lines 41-45). Wang further discloses the transducer 10 of Fig. 1 can be used to measure the axial force applied to a member 12 having a cross sectional diameter (col. 3, lines 65-67). It would have been obvious to one having ordinary skill in the art at the time of the invention to substitute the transducer of Ramm for that of Wang because the method and the transducer will function on a circular cross section member as well as a tapered member and outputs caused by other axis deformations can be eliminated by the symmetry of the transducer and strain gage orientation thereby, making the above combination very effective.

#### ***Allowable Subject Matter***

6. Claims 2-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Focke et al. (US Patent 6,038,836) discloses a process and apparatus for the optoelectronic monitoring of packaging material.

Hutchins et al. (US Patent 7,107,852 B2) discloses a method of inspecting food stuffs and or associated packagings.

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Collins et al. (US Patent 5,929,337) discloses a non-mechanical contact ultrasound system for monitoring contents of a moving container.

Focke et al. (US Patent 6,308,492) discloses a process and apparatus for producing packs.


Basir et al. (US Patent 6,993,972) discloses real-time system for detecting foreign bodies in food containers using ultrasound.

Fardin et al. (US 2004/0113805 A1) discloses a device and method for positioning.

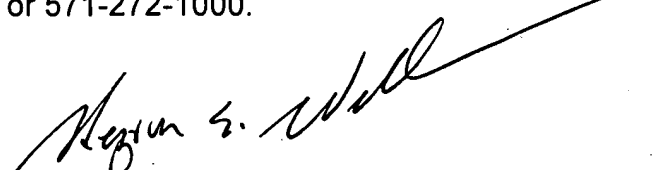
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques M. Saint-Surin whose telephone number is (571) 272-2206. The examiner can normally be reached on Mondays to Fridays between 10:30 A.M and 800 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jacques M. Saint-Surin

December 17, 2006

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800